

From: Tracyalindgren@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:56pm
Subject: Microsoft Settlement

January 28, 2002

Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotelly:

As a long time political activist I am concerned about the leniency regarding the proposed settlement between the Department of Justice and Microsoft in *U.S. v. Microsoft*. It is my belief that this will not put an end to Microsoft's monopolistic practices.

The settlement abandons the principle that fueled consumer criticism and which gave rise to this antitrust case in 1998: Microsoft's decision to bind – or “bolt” – Internet Explorer to the Windows operating system in order to crush its browser competitor Netscape. This settlement gives Microsoft “sole discretion” to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a “Windows Operating System product.” This creates a new exemption from parts of antitrust law for Microsoft and would leave Microsoft free to bolt financial services, cable television, or the Internet itself into Windows.

The settlement does nothing to deal with the effects on consumers and businesses of technologies such as Microsoft's Passport. Passport has been the subject of numerous privacy and security complaints by national consumer organizations. However, corporations and governments that place a high value on system security will be unable to benefit from competitive security technologies, even if those technologies are superior to Microsoft's. Why? Microsoft controls their choices through its monopolies and dominant market share, and still is able to dictate what technologies it will include. The weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants.

A three-person technical committee will be appointed, which Microsoft appointing one member, the Department of Justice appointing another, and the two sides agreeing on the third. This means that Microsoft gets to appoint half of the members of the group watching over its actions.

The committee is supposed to identify violations of the agreement. But even if the committee finds violations, the work of that committee cannot be admitted into court in any enforcement proceeding. This is like allowing a football referee to throw as many

penalty flags as he likes for flagrant violations on the field, but prohibiting him from marching off any penalties.

Finally, Microsoft must comply with the lenient restrictions in the agreement for only five years. This is not long enough for a company found guilty of violating antitrust law.

The end result is that this proposed settlement allows Microsoft to preserve and reinforce its monopoly, while also freeing Microsoft to use anticompetitive tactics to spread its dominance into other markets.

After more than 11 years of litigation and investigation against Microsoft, surely we can – and we must – do much better than this flawed proposed settlement between the company and the Department of Justice.

Sincerely,

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